IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 8739 of 2007

DATED: 26.10.2007

Between:

Y Ramana Raju petitioner

And

The Singareni Collieries Co Ltd
Rep by its Chief General Manager,
Mandamarri Area, mandamarri, Adilabad dist and ors
Respondents

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THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 8739 of 2007

ORAL ORDER:

This writ petition is filed questioning the proceedings dated 24.2.2007 issued by the first respondent terminating the services of the petitioner on medical grounds and the consequential proceedings issued by the third respondent removing the name of the petitioner from the rolls of Area Workshop, Mandamarri w.e.f. 24.2.2007 as illegal and arbitrary.

The petitioner was employed in the respondent company as Electrician. While so, he suffered paralytic attack and after undergoing treatment at Area Hospital, joined a private hospital at Hyderabad. On recovery from the sickness, he approached the third respondent to join the duty and was referred to medical examination and he was advised to submit an application for examination by the Corporate Medical Board. Based on the representation made by the petitioner in June, 2006, he was referred to examination by Corporate Medical Board, and the Corporate Medical Board after examining the petitioner issued proceedings dated 24.2.2007 declaring him unfit for further services on the ground that he is suffering from “HTN with DM with CVA Right Hemiparesis”. Based on the said report, vide proceedings dated 5/14-3-2007 the name of the petitioner was removed from the rolls of the company w.e.f. 24.2.2007. Questioning the said proceedings, the

present writ petition is filed on the ground that paralysis is a curable decease and that the petitioner was totally recovered from the sickness and fit to perform his duties.

A counter affidavit is filed on behalf of the respondents inter-alia stating that as per the provisions of the Mines Act and the rules made thereunder, every employee is obligated to under go periodical medical examination. The allegations made by the petitioner as regard improper treatment offered to him at the Area Hospital was specifically denied. It is stated that the petitioner approached the Area Hospital, Bellampally on 26.11.2005 for obtaining fitness certificate and the Deputy Chief Medical Officer referred the petitioner to Main Hospital, Kothagudem for fitness examination vide letter dated 26.11.2005 and further the petitioner was referred to Corporate Medical Board, Kothagudem and the Corporate Medical Board on examination found that the petitioner is suffering from HTN with DM with CVA right hemiparesis and declared unfit for services vide proceedings dated 17.1.2007 and based on the said proceedings, the services of the petitioner were terminated vide order dated 24.2.2007 and his name was removed from the rolls of the company vide order dated 5.3.2007. It is stated that as per the procedure in vogue, if a person is found unfit for attending the job in which he is employed, he would be offered suitable alternate job and if the person is found unfit even for alternative job, his services would be terminated, with option to dependant employment to one of his male dependant or to claim lumpsum amount of Rs.3,00,000/- in lieu of dependant employment or Rs.3000/- towards Monthly Monetary compensation. The claim of the petitioner that he is fully recovered from the sickness and able to attend to his job, is specifically denied and it is stated that the petitioner is not able to walk freely and is taking support to walk,

therefore he cannot be considered for employment. It is stated that since the services of the petitioner were terminated, he is entitled to claim the benefits provided by the respondent company i.e., dependant employment to a male dependant or can claim a lumpsum amount of Rs.3,00,000/- in lieu of dependant employment or can claim Rs.3000/- towards monthly monetary compensation.

Learned Standing Counsel for respondent company, submitted that the respondent company is engaged in mining operations and the area of operation is underground which require physical fitness and since the petitioner was declared unfit for further services by the Corporate Medical Board, his services were terminated and that he can avail the benefits provided by the respondent company and on submitting his option, the same would be considered in accordance with law.

Heard the learned counsel for petitioner and learned standing counsel for respondent –company and perused the material available on record.

The Corporate Medical Board, which is competent body to assess the physical fitness of the employees of the respondent company,

on physical examination of the petitioner, found that he is suffering from HTN with DM with CVA right hemi-paresis and is unfit for further services in the respondent company. That apart, in the counter affidavit also, it is the specific contention of respondents that the petitioner has not recovered from the sickness and is not able to walk without support. In such circumstances, the argument of the petitioner that he is physically fit to perform the duties, cannot be accepted. When once the competent expert medical Board, on examination of the petitioner opined that he is unfit for further services, this Court

cannot interfere with the matter. However, since the services of the petitioner are terminated on medical grounds, he is entitled to claim the benefits being provided by the respondent company by exercising his option as per his convenience,

i.e., dependent employment to male dependent **or** lumpsum compensation in lieu of dependent employment **or** the monthly monetary compensation, as the case may be. In the circumstances, this Court deems it fit to dispose of the writ petition with the following direction.

The petitioner is directed to submit his option in the prescribed form and on submitting the same, the respondents are directed to consider the same and pass appropriate orders in accordance with law expeditiously.

Accordingly, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

DATE: 26.10.2007
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THE HON'BLE MR JUSTICE N.V. RAMANA

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